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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200409-0107]

RIN 0648-BJ67

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Abbreviated Framework Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Abbreviated Framework Amendment 3 (Abbreviated Framework 3) to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region, as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). If implemented, Abbreviated Framework 3 and this proposed rule would revise the commercial and recreational annual catch limits (ACLs) and recreational annual catch target (ACT) for blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. The purpose of this proposed rule is to ensure that ACLs for South Atlantic blueline tilefish

are based on the best scientific information available, to achieve and maintain optimum yield (OY), and to prevent overfishing while minimizing to the extent practicable, adverse social and economic effects.

DATES: Written comments must be received by *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2020-0039" by any of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal Rulemaking Portal. Go to <https://www.regulations.gov/docket?D=NOAA-NMFS-2020-0039>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Mary Vara, NMFS Southeast Regional Office (SERO), 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal

identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Abbreviated Framework 3, which includes a Regulatory Flexibility Act (RFA) analysis and a regulatory impact review, may be obtained from www.regulations.gov or the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/abbreviated-framework-amendment-3-blueline-tilefish>.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS SERO, telephone: 727-824-5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the FMP and includes blueline tilefish, along with other snapper-grouper species. The FMP was prepared by the South Atlantic Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights described in this proposed rule are in round weight.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

Blueline tilefish is a single genetic stock that ranges from the Mid-Atlantic coast to the northeastern Gulf of Mexico. The South Atlantic Council manages blueline tilefish in the EEZ from the North Carolina and Virginia border southward to the South Atlantic Council's jurisdictional line in the Florida Keys. The Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) manages blueline tilefish in the EEZ from the North Carolina and Virginia border northward through Maine as part of the Tilefish FMP of the Mid-Atlantic Region.

In October 2017, a Southeast Data, Assessment, and Review (SEDAR) benchmark assessment was completed for the Atlantic stock of blueline tilefish, using data through 2015. SEDAR 50 included blueline tilefish that are found in both the South Atlantic and the Mid-Atlantic Councils' jurisdictions. As data for blueline tilefish are less available north of Cape Hatteras, North Carolina, that area was assessed using a data-limited model, while the area south of Cape Hatteras was assessed using an age-aggregated

production model. The South Atlantic Council's Scientific and Statistical Committee (SSC) initially was only able to provide an acceptable biological catch (ABC) recommendation for the portion of the blueline tilefish south of Cape Hatteras. Therefore, an ABC workgroup, comprised of SSC members from both the South Atlantic and Mid-Atlantic Councils and stock assessment participants, was needed to provide an ABC recommendation for the portion of the blueline tilefish stock north of Cape Hatteras and divide that ABC recommendation between the two Council's jurisdictions. Using this information, the South Atlantic Council's SSC was then able to provide an ABC recommendation for blueline tilefish to the South Atlantic Council for their entire jurisdiction.

The current total ACL for blueline tilefish is 174,798 lb (79,287 kg), and is allocated to the commercial sector (50.07 percent) and the recreational sector (49.93 percent). The final rule for Regulatory Amendment 25 to the FMP implemented these ACLs (81 FR 45245, July 13, 2016), and the current sector allocations were established in Regulatory Amendment 13 to the FMP (78 FR 36113, June 17, 2013). This proposed rule would set the total ACL equal to the total South Atlantic ABC of 233,968 lb (106,126 kg). This proposed rule would also update the commercial and

recreational ACLs using the existing allocation percentages.

Management Measure Contained in This Proposed Rule

This proposed rule would revise the commercial and recreational ACLs for South Atlantic blueline tilefish based on updated information from SEDAR 50.

Currently, the blueline tilefish commercial ACL is 87,521 lb (39,699 kg) and the recreational ACL is 87,277 lb (39,588 kg).

Consistent with the results of SEDAR 50 and the ABC recommendation from the SSC and subsequently accepted by the South Atlantic Council, this proposed rule would increase the commercial and recreational ACLs for blueline tilefish.

The total ACL would equal the total South Atlantic ABC of 233,968 lb (106,126 kg). The commercial ACL would be set at 117,148 lb (53,137 kg) and the recreational ACL would be set at 116,820 lb (52,989 kg).

The proposed ACLs are consistent with the South Atlantic Council SSC's ABC recommendation, and this proposed rule would not change the sector allocations.

The blueline tilefish commercial sector has experienced in-season fishing closures every year between April and August since 2014, regardless of the value of the

commercial ACL. If the catch rates of blueline tilefish in the commercial sector continue as expected in the future, the proposed commercial ACL would still be expected to result in in-season closures during the commercial season as a result of the ACL being reached. However, the proposed increase to the commercial ACL is expected to extend the commercial fishing season in future fishing years. Because of recent changes to blueline tilefish management measures and in-season closures, comparative analysis of future commercial season lengths is uncertain.

Blueline tilefish is closed to recreational harvest in the South Atlantic each year from January 1 through April 30, and September 1 through December 31. Each year since 2016, recreational landings of blueline tilefish have exceeded the current recreational ACL of 87,277 lb (39,588 kg). However, a recreational closure during the fishing year as a result of landings being projected to reach the recreational ACL has not occurred because in-season recreational landings are typically not available until after the May through August fishing season concludes. When compared to recent trends in estimated recreational landings, the proposed increase in the recreational ACL could reduce the likelihood that the ACL would be met during the fixed May through August fishing season.

Management Measure Contained in Abbreviated Framework 3 not Codified Through This Proposed Rule

In addition to the measure in this proposed rule, Abbreviated Framework 3 would update the recreational ACT for blueline tilefish in the South Atlantic EEZ. The current and proposed recreational ACT are both based on an ACT equation where the recreational ACT is equal to the recreational ACL multiplied by (1 minus the Percent Standard Error) or the recreational ACL multiplied by 0.5, whichever is greater. The current recreational ACT of 54,653 lb (24,790 kg) would be increased to 70,886 lb (32,153 kg).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Abbreviated Framework 3, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for purposes of the RFA that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

A description of the proposed rule and its purpose are contained at the beginning of the **SUPPLEMENTARY INFORMATION** section and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, the Paperwork Reduction Act does not apply to this proposed rule. The objectives of this proposed rule are to ensure that ACLs for South Atlantic blueline tilefish are based on the best scientific information available to achieve and maintain OY and to prevent overfishing while minimizing to the extent practicable, adverse social and economic effects.

This proposed rule would increase the total ACL, and consequently the commercial and recreational ACLs for

blueline tilefish in the South Atlantic EEZ. Abbreviated Framework 3 would increase the recreational ACT for South Atlantic blueline tilefish. Thus, this proposed rule applies to entities that harvest South Atlantic blueline tilefish. Recreational anglers fishing for South Atlantic blueline tilefish would be directly affected by the proposed rule. However, anglers are not considered entities under the RFA and thus would not be directly regulated by this proposed rule.

This proposed rule is expected to directly regulate commercial and charter vessel and headboat (for-hire) businesses (vessels) that harvest or have the ability to harvest South Atlantic blueline tilefish. In 2018, there were 549 vessels with valid or renewable Federal South Atlantic snapper-grouper unlimited permits and 110 vessels with valid or renewable 225-lb (102-kg) trip limited permits. Any vessel with a valid Federal South Atlantic snapper-grouper unlimited permit or 225-lb (102-kg) trip limited permit may commercially harvest blueline tilefish. In 2018, there were 2,176 for-hire vessels that possessed a valid or renewable Federal charter vessel/headboat South Atlantic snapper-grouper permit. Any for-hire vessel with a valid Federal charter vessel/headboat South Atlantic snapper-grouper permit may harvest South Atlantic blueline

tilefish. The number of charter vessels with valid permits that harvest South Atlantic blueline tilefish cannot be determined with available data. Based on the information above, it is determined that this proposed rule may directly regulate 659 commercial fishing businesses and 2,176 for-hire fishing businesses.

From 2014 through 2018, an average of 143 vessels per year landed blueline tilefish in the South Atlantic. Taken together, these vessels averaged 716 trips per year in the South Atlantic on which blueline tilefish were landed, and an additional 4,400 trips in the South Atlantic that did not land any blueline tilefish or were taken outside the South Atlantic regardless of the species caught. In 2018 dollars, the average annual total revenues were approximately \$0.03 million from blueline tilefish, \$1.89 million from other species co-harvested with blueline tilefish on the same trips, and \$8.95 million from trips in the South Atlantic on which no blueline tilefish were harvested or trips that occurred outside the South Atlantic. Average annual gross revenue from all species landed by vessels harvesting blueline tilefish in the South Atlantic was approximately \$11.15 million. Thus, average annual gross revenue per vessel was about \$78,000 per vessel. For federally permitted charter vessels and

headboats in the South Atlantic, average annual gross revenue is \$123,064 per charter vessel and \$267,067 per headboat in 2018 dollars.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). From 2014 through 2018, the maximum average annual gross revenue for a single vessel in the commercial snapper-grouper fishing industry was about \$1.6 million in 2018 dollars. Based on this information, all directly regulated commercial fishing businesses are determined, for the purpose of this analysis, to be small entities.

The SBA has established size standards for all other major industry sectors in the U.S., including for-hire fishing businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned

and operated, is not dominant in its field of operation (including its affiliates), and has annual receipts (revenue) not in excess of \$8 million for all its affiliated operations worldwide. In 2017, the maximum annual gross revenue for a single headboat in the South Atlantic was about \$765,200 in 2018 dollars. On average, annual gross revenue for headboats is more than double the annual gross revenue for charter vessels. Thus, it is assumed the maximum annual gross revenue for charter vessels is less than \$765,200. Based on this information, all directly regulated for-hire fishing businesses are determined, for the purpose of this analysis, to be small entities.

This proposed rule would increase the total ACL from 174,798 lb to 233,968 lb (79,287 kg to 106,126 kg), the commercial ACL from 87,521 lb to 117,148 lb (39,699 kg to 53,137 kg), and the recreational ACL from 87,277 lb to 116,820 lb (39,588 kg to 52,989 kg). Abbreviated Framework 3 would increase the recreational ACT from 54,653 lb to 70,886 lb (24,790 kg to 32,153 kg). The recreational ACT does not constrain harvest in the recreational sector and therefore is not relevant with respect to determining effects on small entities.

The increase in the commercial ACL is expected to

increase annual gross revenue for commercial snapper-grouper fishing entities harvesting blueline tilefish by a total of \$96,979, or by about \$678 per active vessel, while profits for all commercial snapper-grouper fishing entities harvesting blueline tilefish is expected to increase by \$23,134, or about \$162 per vessel, in 2018 dollars. Because the recreational ACL is shared between private anglers and for-hire vessels, but without an established allocation, it is not possible to determine how much of the increase in the recreational ACL would accrue to the for-hire snapper-grouper vessels that harvest blueline tilefish. However, the higher recreational ACL would be expected to at least minimally increase the number of for-hire trips harvesting blueline tilefish, which in turn would be expected to minimally increase the for-hire vessels' profits.

Based on the information above, this proposed rule would positively affect small commercial and for-hire fishing entities in the South Atlantic snapper-grouper fishery that harvest blueline tilefish. Therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and

none has been prepared.

List of Subjects in 50 CFR Part 622

Annual catch limits, Blueline tilefish, Fisheries,
Fishing, South Atlantic.

Dated: April 9, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part
622 is proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to
read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.193, revise the first sentence in
paragraphs (z)(1)(i), (2)(i), and (3) to read as follows:
**§622.193 Annual catch limits (ACLs), annual catch targets
(ACTs), and accountability measures (AMs).**

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(z) * * *

(1) * * *

(i) If commercial landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 117,148 lb (53,137 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) * * *

(i) If recreational landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 116,820 lb (52,989 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. * * *

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(3) The combined commercial and recreational sector ACL (total ACL) is 233,968 lb (106,126 kg), round weight.

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